



**TOWN OF TEWKSBURY
CONSERVATION COMMISSION
999 Whipple Road
Tewksbury, MA 01876**

Stephen Deackoff, Chairman
Anthony Ippolito, Vice-Chair
Sean Czarniecki, Clerk
Dennis Sheehan
Carolina Linder

**MEETING MINUTES
June 4, 2014**

The meeting was called to order by Anthony Ippolito, Vice Chairman, at 7:02 p.m. at the Pike House. Present were Sean Czarniecki, Dennis Sheehan, and Carolina Linder. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

Steve Deackoff was not present.

Approval of Meeting Minutes - April 23, 2014 and May 14, 2014

Mr. Czarniecki noted that the April 23, 2014 minutes were approved; however, there were some edits that the members may not have seen.

MOTION: Mr. Czarniecki made the motion to approve the April 23, 2014 as amended; seconded by Ms. Linder and the motion carried 4-0.

Ms. Linder noted that item E should state that the erosion controls should have been put in place. Ms. Johnson will go back and review the tape.

MOTION: Mr. Czarniecki made motion to table the May 14, 2014 meeting minutes; second by Mr. Sheehan and the motion carried 4-0.

A. Continued Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52, Lot 25, DEP#305-966

Mr. Boyd noted that the applicant has requested to continue this matter to the July meeting.

MOTION: Mr. Czarniecki made the motion to continue Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52, Lot 25, and DEP #305-966 to July 18, 2014 at 7:02 p.m.; seconded by Mr. Sheehan and the motion carried 4-0.

B. Continued Notice of Intent, John Berube, 250 Trull Road, Map 24, Lot 47, DEP #305-968

Present was Jack Berube, Michael Panasuk, and Christian Panasuk. Mr. Berube explained that they have received the necessary documentation from National Heritage that there will be no impact or disturbance to any potential wildlife in the area.

Mr. Boyd confirmed this and noted that he recommends approval at this time.

MOTION: Mr. Czarniecki made the motion to close the public hearing; seconded by Ms. Linder and the motion carried 4-0.

MOTION: Mr. Czarniecki made the motion to approve Notice of Intent, John Berube, 250 Trull Road, Map 24, Lot 47, DEP #305-968, standard Order of Conditions; seconded by Ms. Linder and the motion carried 4-0.

C) Certificate of Compliance, John Berube, 2543 Main Street, Map 94, Lot 63, DEP# 305-921

Mr. Ippolito noted that the correct address is 2508 Main Street.

Present was Jack Berube, 2543 Main Street, Tewksbury, MA. Mr. Ippolito noted that he visited the site and the only outstanding issue was the markers; which have since been installed.

Mr. Czarniecki noted that he also visited the site and it appears to be in order.

MOTON: Mr. Czarniecki approve Certificate of Compliance, John Berube, 2508 Main Street, Map 94, Lot 63, DEP# 305-921; seconded by Mr. Sheehan and the motion carried 4-0.

D) Enforcement Order, Brian MacNeill, 10 Cooney Road, Map 26, Lot 5

Present was Maureen Hanley of Norse Environmental Services. Ms. Hanley explained that the homeowners, Brian and Jenna MacNeill, have hired Norse Environmental Services to determine a restoration plan. The bordering vegetated wetland has been flagged and the MacNeill's are in the process of having the property surveyed.

Mr. Boyd noted that he reached out to Steve Erickson of Norse Environmental and requested he review the packet that has been submitted by the abutter. Mr. Boyd recommended a restoration plan be submitted by the June 18, 2014 meeting.

Ms. Hanley noted that a letter dated May 30, 2014 was submitted stating that the wetlands have been flagged.

MOTION: Mr. Czarniecki made the motion to amend the Enforcement Order, Brian MacNeill, 10 Cooney Road, Map 26, Lot 5 and continue the matter to June 18, 2014, at which time a restoration plan shall be submitted; seconded by Mr. Sheehan and the motion carried 4-0.

E) Enforcement Order, Atillio Dispersio, Jr., 1275 Shawsheen Street, Map 101, Lot 76

There was no one present for this matter.

Mr. Boyd noted that the wetlands have been flagged, but no other real progress has been made within the past month. Mr. Boyd suggested continuing this matter to June 18, 2014 and request that a restoration plan be submitted by June 11, 2014. The matter will be turned over to the State should the homeowner fail to comply.

MOTION: Mr. Czarniecki made the motion to amend the Enforcement Order, Atillio Dispersio, Jr., 1275 Shawsheen Street, Map 101, Lot 76, a restoration plan shall be submitted and erosion controls shall be put in place by June 11, 2014, the homeowner shall be present at the next hearing on June 18, 2014; seconded by Mr. Sheehan and the motion carried 4 0.

F) Enforcement Order, Michael & Sophia Dedi, 230 North Street, Map 62, Lot 8

There was no one present for this matter.

Mr. Boyd explained that he has been in contact with DEP on this matter. The original enforcement order that has been issued was based on work being done in the river. Mr. Boyd visited the site with the Board of Health Director, Lou Ann Clement, and the Town Engineer. The homeowner's allowed them into the backyard and it was determined that a great deal of vegetation has been cleared and a silt fence was put down. The area is in excess of 5,000 square feet. The silt fence is landscaping fabric tarps and is causing significant flooding. Mr. Boyd has spoken with DEP and they have requested that the homeowner obtain a letter from a wetland scientist that they have retained for the services of restoration; if no letter is presented the matter should be turned over to the DEP. Mr. Boyd noted that this is the largest disturbance he has seen since he started in Tewksbury and it may be out of the Commission's hands due to the size of the disturbance.

Mr. Czarniecki noted that while it is a big disturbance, most of the restoration will be removing the fabric tarp. The area would then likely come back; however, additional seed may be required as well as future monitoring.

Mr. Boyd explained that he is not sure if they are willing to work with the Commission as none of the things that were requested at the last meeting have been done and a wetland scientist has not been hired. Mr. Boyd previously informed Mr. Dedi that breaching a beaver dam is a Federal offense and now two of the three dams have been breached. Mr. Boyd noted that the State originally contacted him regarding this site and suggested referring the matter back to them.

Ms. Linder asked if the chicken wires have in fact been removed as previously stated and Mr. Boyd confirmed this.

MOTION: Mr. Czarniecki made the motion to defer Enforcement Order, Michael & Sophia Dediu, 230 North Street, Map 62, Lot 8 to the DEP; seconded by Ms. Linder and the motion carried 4-0.

G) Enforcement Order, Villa Sandra Cardenas, 394 Whipple Road, Map 20, Lot 4

Present was Maureen Hanley of Norse Environmental Services. Ms. Hanley explained that they have been retained by the homeowner. The wetlands were flagged this past Monday and they are in the process of obtaining a surveyor.

Ms. Linder noted that erosion controls were to be put in place per the last meeting and this has not been done. Ms. Hanley noted that as of Monday they are not in place, but she will check with the homeowner and speak with Mr. Boyd tomorrow.

Mr. Boyd noted that additional work has been done since the cease and desist was ordered and requested Ms. Hanley speak with the homeowner's regarding this. Ms. Hanley confirmed she will relay the message.

MOTION: Mr. Czarniecki made the motion to amend the Enforcement Order, Villa Sandra Cardenas, 394 Whipple Road, Map 20, Lot 4, erosion controls shall be put in place by June 11, 2014, a restoration plan shall be submitted by June 13, 2014, the homeowner's shall be present at the June 18, 2014 meeting; seconded by Mr. Sheehan and the motion carried 4 0.

H) Enforcement Order, Anthony Dangelo, 15 Dirlam Circle, Map 82, Lot 218

Present was Anthony Dangelo of 15 Dirlam Circle. Mr. Boyd explained that he received an anonymous telephone call that trees were being cleared and the area was being disturbed. Mr. Boyd visited the site and confirmed that some tree clearing had taken place and noted that there is also a river. The area may be in a flood plain and no permits were obtained. Mr. Boyd noted that this is not a large disturbance, but it should still be corrected.

Mr. Dangelo noted that he is aware of the stream and explained that three trees were removed; two of which were dead and about to fall. Nothing has been put into the stream.

Ms. Linder asked what the restoration plan would be. Mr. Boyd explained that he does not feel a wetland scientist is necessary in this case and noted that he will work with Mr. Dangelo on the site to determine how this can be corrected

Mr. Czarniecki suggested Mr. Dangelo review the regulations to see what he is and is not allowed to do in the future.

MOTION: Mr. Czarniecki made the motion to continue Enforcement Order, Anthony Dangelo, 15 Dirlam Circle, Map 82, Lot 218 to June 18, 2014, Mr. Boyd will work with Mr. Dangelo to determine a plan; seconded by Mr. Sheehan and the motion carried 4-0.

I) Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66

There was no one present for this matter.

Mr. Czarniecki asked if the property owner is willing to work with the Commission on this matter. Mr. Boyd noted that he spoke with the property owner and he indicated he would be present tonight.

MOTION: Mr. Czarniecki made the motion to table Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66 to end of tonight's agenda; seconded by Mr. Sheehan and the motion carried 4-0.

J) Request for Determination, Ruth Chou, 338 North Billerica, Road, Map 3, Lot 60

Present was Ruth Chou. Ms. Chou explained that she is proposing to construct a replacement garage that may be within the 100 foot buffer, but outside of the no build zone. Ms. Chou noted that there is approximately 16 feet to the no build zone.

Mr. Boyd noted that he does not feel this project would be any more of an impact to the wetlands than the existing garage and suggested erosion controls be installed.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Czarniecki made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 4-0.

MOTION: Mr. Czarniecki made motion for a negative determination Ruth Chou, 338 North Billerica, Road, Map 3, Lot 60, the applicant shall work with Mr. Boyd on the installation of erosion controls; seconded by Mr. Sheehan and the motion carried 4-0.

K) Abbreviated Notice of Resource Area Delineation, Sullivan Family Trust, 1390 & 1394 Main Street, Map 59, Lots 53 and 54

Present was Maureen Hanley of Norse Environmental Services. Ms. Hanley provided the members with a copy of a plan of the site and explained that they have filed an abbreviated notice of resource area delineation to confirm the bordering vegetated wetlands. Ms. Hanley explained that for the most part the wetlands follow the stone wall that is on the property and there is also an intermittent stream associated. Ms. Hanley noted that she visited the site with Mr. Boyd today.

Mr. Boyd noted that there is a 2.5 foot drop after the stone wall and the area then gets wetter. Mr. Boyd noted that this is a pretty straight forward delineation and that he has no issues.

Mr. Ippolito opened the hearing to the public.

Mr. Gene Hyder came forward and noted that he is present on behalf of St. Williams Church. Mr. Hyder asked exactly where the property is located. Ms. Hanley noted it is located across from Colonial Drive.

Mr. Peter Cote came forward and noted that he works at St. Williams Church and they are concerned that this is a flood area and explained that the church has flooded in the past and it has cost a great deal to fix. The church will not be able to withstand another flood situation.

MOTION: Mr. Czarniecki made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 4-0.

MOTION: Mr. Czarniecki made the motion to approve Abbreviated Notice of Resource Area Delineation, Sullivan Family Trust, 1390 & 1394 Main Street, Map 59, Lots 53 and 54, reference shall be made to the plan dated May 1, 2014; seconded by Mr. Sheehan and the motion carried 4-0.

L) Request for Determination, Patrick Walsh, 418 Pleasant Street, Map 32, Lot 49

There was no one present for this matter.

Mr. Boyd explained that the homeowner submitted a request for determination for a pool prior to obtaining a Certificate of Compliance for the site. As a result, they cannot proceed until the Certificate of Compliance is issued. The applicant has requested that both items be put on the agenda for the same night.

Mr. Czarniecki noted that is not known whether or not the Commission will be able to approve the Certificate of Compliance and cautioned against having both matters heard the same night.

MOTION: Mr. Czarniecki made the motion to continue Request for Determination, Patrick Walsh, 418 Pleasant Street, Map 32, Lot 49 to June 18, 2014 time to be determined; seconded by Mr. Sheehan and the motion carried 4 0.

MOTION: Mr. Czarniecki made the motion to untable Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66; seconded Ms. Linder and the motion carried 4 0.

M) Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66

Present was Robert Kowalchik.

Mr. Boyd explained that he received a complaint from a resident with pictures showing automobile parts being stored right up to the wetlands and some in the wetlands. Mr. Boyd explained to Mr. Kowalchik that he will need to retain the services of a wetland scientist to mark the wetland area. The restoration plan was to be submitted at tonight's meeting. Mr. Boyd recommended the wetlands be flagged and a plan be drawn up showing the buffer zones and areas that were disturbed in order to determine a restoration plan.

Ms. Linder asked if the automobile parts should be removed in the meantime. Mr. Czarniecki recommended the parts not be removed until a plan has been established so not to further disturb the area.

Ms. Linder noted that it appears that some tree clearing has also taken place. Mr. Boyd asked when this work was done. Mr. Kowlachik noted that he believes it has been that way for awhile and was preexisting. Mr. Boyd noted that this area should also be addressed in the plan.

MOTION: Mr. Czarniecki made the motion to amend the Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94, Lot 66, a restoration plan shall be submitted to the Commission by June 13, 2014, the property owner shall be present at the June 18, 2014 meeting; seconded by Mr. Sheehan and the motion carried 4-0.

New Business

Mr. Czarniecki noted that the Bylaw Subcommittee met prior to the Conservation Commission meeting and voted to pass the amended regulations on to the Commission for public hearing and vote.

MOTION: Mr. Czarniecki made the motion for the Commission to set a public hearing on the proposed fee schedule and amended regulations for June 18, 2014; seconded by Ms. Linder and the motion carried 4-0.

Sutton Brook

Mr. Czarniecki noted that the work at Sutton Brook began last week.

Old Business

Mr. Ippolito inquired as to the status of the member's identification cards. Mr. Boyd explained that the members can go to the police station for the identification cards.

Discussion took place on site visits.

Adjourn.

MOTION: Mr. Czarniecki made the motion to adjourn; seconded by Mr. Sheehan and the motion carried 4-0.

Approved: 6/18/14

List of documents for 6/4/14 Agenda

Documents can be located at the Community Development Office

Approval of Meeting Minutes-April 23, 2014

- A. 7:02 P.M. (Continued) Notice of Intent, Steve Cox, 1 Radcliff Road, Map 52 Lot 25, 305-966**
- *Continuance letter dated May 29, 2014 from Ting Chang*
 - *WPA Form 3-Notice of Intent*
 - *Drainage Calculations dated March 21, 2014*
 - *Pamella Merrill review letter dated April 15, 2014*
 - *Weston & Sampson review letter dated April 14, 2014*
- B. 7:05 P.M (Continued) Notice of Intent, John Berube, 250 Trull Road, Map 24 Lot 47, DEP 305-968**
- *WPA Form 3- Notice of Intent*
 - *Certified Plot Plan dated 3/23/14*
 - *NHESP review letter dated May 22, 2014*
- C. 7:07 P.M Certificate of Compliance, John Berube, 2543 Main Street, Map 94 Lot 63, DEP # 305-921**
- *WPA Form 8A-Request for Certificate of Compliance*
 - *WPA Form 5-Order of Conditions DEP # 305-921*
- D. 7:09 P.M Enforcement Order, Brian MacNiell, 10 Coonie Road, Map 26 Lot 5**
- *Enforcement Order dated 4/15/14*
 - *Catherine Mendonca letter submittal*
- E. 7:11 P.M Enforcement Order, Atillio Dispersio Jr., 1275 Shawsheen Street, Map 101 Lot 76**
- *Enforcement Order dated 4/16/14*
- F. 7:13 P.M Enforcement Order, Michael & Sophia Dediu, 230 North Street, Map 62 Lot 8**
- *Enforcement Order dated 5/5/14*
 - *Email correspondence package between Mr. Dediu and Mr. Boyd*
 - *Email from Cara Jenkins dated 5/14/14*
- G. 7:15 P.M Enforcement Order, Villa Sandra Cardenas, 394 Whipple Road, Map 20 Lot 4**
- *Enforcement Order dated 5/5/14*
- H. 7:17 P.M Enforcement Order, Anthony Dangelo, 15 Dirlam Circle, Map 82 Lot 218**
- *Enforcement Order dated May 28, 2014*
- I. 7:19 P.M Enforcement Order, Robert Kowalchik, 2532 Main Street, Map 94 Lot 66**
- *Field photos taken at 2532 Main Street dated 5/14/14*
 - *Enforcement Order dated 5/14/14*
- J. 7:21 P.M Request for Determination, Ruth Chou, 338 North Billerica**

Road, Map 3 Lot 6

- *WPA Form 1 Request for Determination Packet*
- *Request for Determination Plans*

K. 7:23 P.M

Abbreviated Notice of Resource Area Delineation, Sullivan Family Trust, 1390 & 1394 Main Street, Map 59 Lots 53 and 54

- *Abbreviated Notice of Resource Area Delineation Report submitted by Norse Environmental dated May 2014*
- *Existing Conditions Plan dated May 1, 2014*

L. 7:25 P.M

Request for Determination, Patrick Walsh, 418 Pleasant Street, Map 32 Lot 49

- *WPA form 1 Request for Determination Application*
- *Proposed Plot Plan dated March 7, 2013*